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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 ADRIAN CONTRERAS-REBOLLAR,

9 Petitioner,

10 v.

11 JAMES KEY,

12 Respondent.

CASE NO. C15-5471 BHS

ORDER DENYING PETITIONER'S
MOTION FOR
RECONSIDERATION

13 This matter comes before the Court on Petitioner Adrian Contreras-Rebollar's
14 ("Petitioner") motion for reconsideration of order adopting report and recommendation
15 (Dkt. 63).

16 On January 1, 2017, the Court denied relief on ground 2 of Petitioner's petition for
17 writ of habeas corpus and dismissed grounds 3 and 4 without prejudice because these
18 grounds were unexhausted. Dkt. 49. In relevant part, Petitioner "elect[ed] to voluntarily
19 delete the two unexhausted claims in question." Dkt. 36 at 1. On August 25, 2017, the
20 Court denied relief of ground 1 of the petition and ordered the Clerk to close the case.
21 Dkt. 61. On September 6, 2017, Petitioner filed a motion for reconsideration. Dkt. 63.
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1 Petitioner contends that, during the additional consideration of ground 1, he has
2 exhausted his claims for relief on grounds 3 and 4. *Id.*

3 On September 12, 2017, the Court requested additional briefing and renoted
4 Petitioner's motion. Dkt. 64. On September 19, 2017, Respondent responded. Dkt. 65.
5 On September 28, 2017, Petitioner replied. Dkt. 66.

6 In this case, Petitioner has failed to show that he exhausted his claims during the
7 additional consideration of the petition. In his reply, Petitioner essentially drops his
8 argument that he exhausted the claims during this proceeding and argues that he
9 exhausted before he filed this federal petition. Dkt. 66. These arguments should have
10 been presented earlier in this matter instead of agreeing with the Government that his
11 claims were unexhausted. Dkt. 36 at 1. Therefore, the Court **DENIES** Petitioner's
12 motion for reconsideration. For purposes of an appeal, the Court concludes that any
13 appeal of this order would be frivolous.

14 **IT IS SO ORDERED.**

15 Dated this 11th day of October, 2017.

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18 BENJAMIN H. SETTLE
United States District Judge
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